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RR RUEHBZ RUEH DU RUEHJO RUEHRN
DE RUEHMR #0361/01 2820916
ZNR UUUUU ZZH
R 090916Z OCT 09
FM AMEMBASSY MASERU
TO RUEHC/SECSTATE WASHDC 4416
RUCPDO/DEPT OF COMMERCE WASHINGTON DC
RUEATRS/DEPT OF TREASURY WASHINGTON DC
INFO RUCNSAD/SADC COLLECTIVE
RUEHMR/AMEMBASSY MASERU 4850

UNCLAS SECTION 01 OF 07 MASERU 000361

SIPDIS

DEPT FOR AF/S AND AF/EPS GABRIELLE MALLORY
STATE PASS USTR FOR CONSTANCE HAMILTON
COMMERCE FOR KEVIN BOYD
TREASURY FOR ANTHONY IERONIMO

E.O. 12958: N/A
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SUBJECT: LESOTHO: AGOA ELIGIBILITY REVIEW

REF: STATE 97769

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¶1. Per reftel's request, post submits the following information for the annual AGOA eligibility review.

¶2. Country: Lesotho Current AGOA Status: Eligible

Country Background Summary: The Kingdom of Lesotho is a landlocked Southern African nation with a population of approximately 1.88 million inhabitants and a per capita income of \$1,110 per month in 2007. In 2006, Lesotho achieved a record growth rate of 6.2% due to the doubling of the diamond mining output and rising public investment. The economy is estimated to grow at the rate of 1.1% in 2009 compared to 3.4% in 2008. The slowdown is mainly due to the effects of the global economic crisis. Government revenue is mainly derived from taxes and customs revenues. Lesotho's market-based economy is closely tied to that of its larger neighbor, South Africa, though its export sector is heavily dependent on apparel exports to the United States under the African Growth and Opportunity Act (AGOA). With a prevalence rate of approximately 23%, Lesotho has one of the world's highest rates of HIV/AIDS infection.

The Government of Lesotho (GOL) is focusing on structural and institutional reforms and increased investment with the support of a \$362.5 million Compact grant from the Millennium Challenge Corporation (MCC). The GOL seeks to address the country's credit weakness, low level of development, and poor business environment. Improvements in the country's development will depend on the impact of reforms, infrastructure enhancements, increasing private sector activity, and diversification of government revenue streams and the country's industrial export base. According to an MCA Lesotho fact sheet published in January 2009, Lesotho is the first African country which was able to perform to MCC expectation by meeting the set standards and time-frames of the Compact Conditions Precedent and Milestones Schedule.

¶3. Comments on Eligibility Requirements

I. Market-based Economy

A. Major Strengths Identified

- The Government's efforts continue to focus on structural and institutional reforms and investment in infrastructure. This effort is supported by a \$362.5 million grant from MCC to address low levels of development and the weak investment climate. Infrastructural developments include the expansion of electricity supply, a waste water recycling system, and urban roads.

- These initiatives will be supplemented by an \$8.1 million World Bank private sector competitiveness and economic diversification project. The World Bank project aims to improve Lesotho's business environment by streamlining procedures for starting a business and facilitating commercial bank loans to the private sector. To aid in industrial diversification, the project will finance training centers to teach textile workers to produce greater value-added products and conduct pilot projects in the field of tourism.

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- Lesotho is a member of the WTO and therefore its open rules-based trading system complies with WTO obligations.

- Lesotho is a member of Southern African Customs Union (SACU) and Southern African Development Community (SADC), which allows preferential access by each member country to the others' markets.

- The government's intervention in the market is very limited and subsidies and price controls are rarely used.

- Lesotho privatized all state owned enterprises including telecommunications, utilities, government transportation and the radio airways. However, in 2008 the government introduced state-owned buses in the public transportation sector.

- Lesotho is largely open to foreign direct investment (FDI); however, the FDI policy and legal framework are not well developed enough to enhance transparency and consistency. The Lesotho National Development Corporation (LNDC) has a mandate to promote FDI.

- Lesotho welcomes investment from all countries of the world, including the United States.

- In the mining sector, the outlook is positive. Letseng Diamonds, which began commercial production in 2004, doubled capacity in 2008. Liphobong and Kao Mines began production in 2006 and 2007 respectively although they suspended operations recently due to the persistent global imbalances and the volatile commodities prices that followed it. Four other mines;; Mothae, Moste-Tsoeu, Lemphane, and Kolo are at the prospecting stage. This sector has contributed to higher GDP growth and the diversification of Lesotho's export base.

- The textile and garment industry remains the largest employer in the country although its workforce has declined from 45,310 individuals in July 2008 to around 36,000 individuals in July 2009. Based on a report from the US Commerce Department on US Trade with Sub-Saharan Africa, Lesotho's annual garment exports to the United States under AGOA currently stand at \$374.1 million. In 2006, 6.6% of GDP was accounted for by the garment sector alone. All other manufacturing activities totaled 8.6% of GDP.

- Lesotho is committed to cutting red tape and providing an enabling, legal, and regulatory environment to improve the ease of doing business in Lesotho. For instance, there is a One-Stop Business Facilitation Centre which provides integrated services to businesses including export and import coordination and a new simplified and computerized licensing regime. There is also a favorable tax environment for the export sector. The tax rate on income generated from exporting manufactured goods outside of SACU is 0%; there is a maximum manufacturing tax rate of 10% on profits derived from sales within SACU; and there is no capital gains tax.

- B. Major Issues/Problems Identified**

- Lesotho's current weak business environment constrains private sector-led development. The World Bank ranked Lesotho 130 out of 183 countries for ease of conducting business.

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- Infrastructure bottlenecks, such as factory space and waste water treatment facilities, constrain expansion of the manufacturing sector and development of additional fabric mills.

- Lesotho's textile industry has experienced a continuing erosion of its competitiveness in recent years. This erosion has resulted in a reduction of production output and prices. During this same period, a decreasing general demand for textile products in the United States also exerted downward pressure.

- These trends indicate the sector's high vulnerability to global competition which will only increase as more quotas on Chinese textiles are removed based on the WTO's general trading rules.

- The HIV/AIDS prevalence rate, currently estimated at 23%, poses a major challenge to Lesotho's long-term growth prospects.

II. Political Reforms/Rule of Law/Anti-Corruption

1B. Major Strengths Identified

- According to the Freedom House country report, Lesotho is 'Free'. The status designation of 'Free' is determined by the combination of the political rights and civil liberties ratings, it indicates the general state of freedom in a country. The political rights and civil liberties categories contain numerical ratings between 1 and 7, with 1 representing the most free and 7 the least free. Lesotho has a rating of 2 for political rights and 3 for civil liberties.
- Lesotho law prohibits arbitrary arrest and detention. The government generally observed these prohibitions. However, political opposition figures claimed that security forces violated these principals in the aftermath of July 2007 attacks on several GOL ministerial residences in Maseru.
- The constitution and law provide for an independent judiciary, and the judiciary was independent in practice.
- The GOL, through its Directorate on Corruption on Economic Offences (DCEO), continued to pursue corruption cases related to the embezzlement of government resources in various government departments and the private sector.

1B. Major Issues/Problems Identified

- According to the Transparency International Corruption Perceptions Index, Lesotho was rated 3.2, indicating that corruption was perceived to be a serious problem. The index defines corruption as the abuse of public office for private gain and measures the degree to which corruption is perceived to exist among a country's public officials and politicians.

- Lengthy pretrial detention remained a problem due to a

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serious backlog of cases and an overall lack of resources within the Ministry of Justice and Human Rights.

- The mediation begun by the Southern African Development Community (SADC) following the 2007 election has reached a stalemate since the SADC appointed mediator delivered a report on his findings and disengaged from political dialogue in July 12009. Even the subsequent dialogue that began under the mediation of the Christian Council of Lesotho and other civil society organizations in August 2009 was postponed indefinitely due to disagreement between government and opposition parties.

SADC continues to monitor the situation via its Organ on Politics, Defense, and Security.

III. Poverty Reduction

A. Major Strengths Identified

- In 2007 Lesotho enacted the Poverty Reduction and Growth Strategy (PRGS), aimed at providing broad-based economic growth.

The government plans to create more employment income opportunities through rapid and sustained economic growth, which will empower the poor and vulnerable to access basic services. According to the PRGS, growth should be driven by the private sector and facilitated by appropriate government policies. Lastly, the PRGS is intended to deepen the capacity of the democratic institutions in the country and improve public sector performance.

- The PRGS envisages an average growth rate of 4.5% throughout the implementation period (2008-2012).

- Strategies for sustainable broad-based economic growth include attracting domestic investment and foreign direct investment beyond the garment sector in order to add value to local products and expand the economic base, especially in the tourism industry.

- Free primary education, introduced in 1999, was extended to the seventh and final grade in 2006. To accommodate increased intake, the government has built 108 new primary schools since 2000. Seventeen of these were inaugurated by the Prime Minister in February 2007. The government also introduced an affordable text book rental plan for secondary schools. A similar rental plan was introduced in primary schools in 2003.

- The National Manpower Development Secretariat continued to provide loan bursaries to qualifying university and other tertiary institutions students. GOL allocated \$50.9 million for these loan bursaries in the 2009/10 budget.

B. Major Issues/Problems Identified

- As observed during the IMF Article IV Consultations in August 2007, preliminary results from a review of the original Poverty Reduction Strategy (PRS) show that despite relatively good growth, PRS indicators were not positive, indicating that the country has been unable to achieve broad-based sustainable

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growth. Fitch Rating's 2007 Sovereign Credit Rating ranked

Lesotho at "BB-" for its foreign long-term currency rating and at "B" for its short-term foreign rating, with a stable outlook. However, Fitch indicated that the country is much less developed than its peers in the "BB" group. Lesotho's per capita income of \$1,100 falls far short of the "BB" rating group median of \$2,500.

- Lesotho's Human Poverty Index ranking was 71 out of 108 countries in 2007/08, largely due to the high prevalence of HIV/AIDS (23% among the total population).

- The country lacks data essential for monitoring and evaluating PRS implementation.

- Poverty remains widespread, and the official unemployment rate according to the Bureau of Statistics is estimated to be around 22.7%. However, the majority of trade unions estimated the unemployment rate to be between 40-50 %. They mainly attributed that estimate to the loss of jobs in the textile and garments sector, which is the largest formal employer after the government.

IV. Workers' Rights/Child Labor/Human Rights

A. Major Strengths Identified

- The Constitution recognizes the right to form independent trade unions to protect workers' rights and provides for sound labor relations and fair employment practices.

- The Constitution prohibits slavery or servitude and forced labor.

- In June 2006, Lesotho's Parliament amended the 1982 Labor Code to include an HIV/AIDS workplace policy.

- Lesotho ratified ILO Convention 182 on the Worst Forms of Child Labor and 138 on Minimum Age in 2001.

- In an effort to reduce child labor, Lesotho participates in two regional U.S. Department of Labor programs: "Towards Eliminating Child Labor" and "Reducing Exploitative Child Labor in Southern Africa".

- In June 2008, the Ministry of Labor and Employment, with assistance from the ILO, endorsed the National Action Plan on Elimination of Child Labor in Lesotho (APEC). APEC was conceived of under the US DOL program "Towards Eliminating Child Labor in Southern Africa."

- The law provides for freedom of speech and of the press, and the government generally respected those rights.

- The law provides for freedom of assembly and association, and

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the government generally respected those rights.

- The law provides for freedom of religion, and the government generally respected this right.

- An inter-sectoral committee formed to combat trafficking in persons has been established. The committee's goal is to draft a comprehensive law against trafficking in persons, and efforts have intensified country-wide to educate law enforcement and ports of entry officials about trafficking in persons issues.

B. Major Issues/Problems Identified

- Ministry of Labor officials reported that employers in the retail sector frequently violate the labor code. They cited common problems, including violations of the rules governing ordinary hours of work, overtime pay, and public holidays. They also said that health and safety violations were also common in locally-owned establishments. Employers of locally-owned establishments often do not keep records of employees' salaries to facilitate legally required inspections. The labor code also prohibits essential employees such as civil servants from joining or forming unions, but allows them to form staff associations.

- The law limits workers' rights to strike and requires a number of procedures before strike action is authorized.

- The national minimum wage is approximately \$100 per month. Recent stories in the local newspapers pointed out, this minimum wage does not provide a decent standard of living for workers and their families.

- Child labor is common in the informal and agricultural sectors, because, while on the surface, child labor laws covered all sectors, there are no provisions for children working in informal sectors such as private establishments.

- An increase in the number of youth orphaned by the HIV/AIDS pandemic has placed young children at risk of employment within the informal sector.

- Prisons were overcrowded and conditions remained poor. See the 2008 Human Rights Report for more details.

- Violence against spouse and children remained a serious problem. See the 2008 Human Rights Report for more details.

- The law does not specifically prohibit trafficking in persons. There were no official statistics available on the issue of trafficking.

IV. International Terrorism/U.S. National Security

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A. Major Strengths Identified

None

B. Major Issues/Problems Identified

None
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